

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No. 120 of 2026

Dhan Singh Rawat

.....Appellant

Versus

Anand Singh Latwal

.....Respondent

Present:-

Mr. Siddhartha Singh, Advocate for the appellant.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The instant appeal is preferred against the order dated 11.02.2026, passed in Misc. Suit No.07 of 2022, Dhan Singh Rawat v. Anand Singh Latwal, by the court of Civil Judge (Senior Division), Haldwani ("the misc. case"). By the impugned order, the proceedings under Order 39 Rule A of the Code of Civil Procedure, 1908 ("the Code") have been closed.

2. Heard learned counsel for the appellant and perused the record.

3. The appellant filed the original suit no.2 of 2021 in the court of Civil Judge (Senior Division), Haldwani, District Nainital ("the suit") for perpetual injunction restraining the defendants from interfering into the lawful and peaceful possession of the plaintiffs in the suit property. On 25.09.2021, the Court passed *status quo* order. It appears that on 22.02.2022, the appellant filed an application under Order 39 Rule 2A of the Code bringing it to the notice of the Court that the respondent made disobedience to the *status quo* order, and on 19.02.2022 and 20.02.2022, he had got the possession of the suit property by placing iron angle on the suit property. It is the basis of the misc. case. The appellant, thereafter, also sought relief of possession against the defendant in the suit.

4. In the meanwhile, the defendant had challenged the *status quo* order dated 25.09.2022, passed in the suit in Appeal from Order No. 88 of 2022, Anand Singh Latwal v. Dhan Singh Rawat (“the appeal”), which was decided on 16.03.2022. The order is as follows:-

“The Appeal From Order has been filed against the order dated 25.09.2021, passed by the learned Civil Judge (Senior Division) Haldwani, District Nainital in Civil Case No.55 of 2021, “Dhan Singh Rawat vs. Anand Singh Latwal”, whereby the learned trial court has directed both the parties to maintain status quo over the property in dispute.

Mr. Sudhir Kumar, learned counsel for the appellant.

During the arguments, the learned counsel for the appellant submitted that this appeal may be disposed of at the admission stage with the direction to the learned trial court to call a Commission Report regarding the property in dispute and order of status quo be ordered to be subject to Commission Report.

This is innocuous prayer.

This Appeal is disposed of with the direction to the learned trial court to call the Commission Report of the property in dispute within fifteen days’ from the production of the certified copy of this order. The status quo, as directed by the learned trial court; shall be subject to the Commission Report.

Let a certified copy of this order be supplied to the learned counsel for the appellant by 21.03.2022 on payment of usual charges.”

5. Pursuant to the Court’s order, the Commission submitted its report on 04.04.2022 revealing the possession of the respondent.

6. In this background, an application 36 C was filed by the respondent that since the *status quo* order was subject to the Commission report, and the Commission report has established the possession of the respondent, the application under Order 39 Rule 2A and Section 151 of the Code do not survive, therefore, they may be rejected. On this application, the appellant did file objections revealing that, in fact, after grant of *status quo* order on 19.02.2022 and 20.02.2022 the respondent has occupied the property in dispute, of which an FIR was lodged, and immediately thereafter, on 21.02.2022, the application under Order 39 Rule 2A of the Code has been filed. Therefore, it has been the case of the appellant that disobedience of the Court’s order has been made by the respondent,

and the application under Order 39 Rule 2A and Section 151 of the Code still survives.

7. After hearing the parties, by the impugned order, the Court closed the proceedings of the application under Order 39 Rule 2A of the Code, which is impugned herein.

8. Learned counsel for the appellant submits that after the *status quo* order dated 25.09.2021, on 19.02.2022 and 20.02.2022, the respondent did occupy the property in suit by placing iron angle on it, and immediately thereafter, the application under Order 39 Rule 2A of the Code was filed 21.02.2022. He submits that, in fact, the appellant has also filed a report against the respondent at police station on 19.02.2022 with regard to the forcible possession of the suit property; the part of disobedience still remains to be decided by the Court in the misc. case.

9. Learned counsel for the appellant also submits that on 16.03.2022, when in the appeal, order was passed by this Court, till then, in fact, disobedience of the *status quo* order had already been done.

10. Order 39 Rule 2A of the Code provides consequence of disobedience or breach of injunction.

11. It is the case of the appellant that the *status quo* order dated 25.09.2021, passed in the misc. case has been disobeyed because, thereafter, on 19.02.2022 and 20.02.2022, the respondent has forcibly taken possession of the suit property by placing iron angle on it.

12. It may be noted that the Court, on 25.09.2021, had passed *status quo* order. However, the possession of the suit property was not defined then. In the appeal that was preferred before this Court, this Court defined the status, and it was directed that the *status quo*, as directed by the learned trial court; shall be subject to the Commission Report. It means that the status shall be such, as is

determined by the Commission in its report. Admittedly, the Commission submitted its report on 04.04.2022 revealing the possession of the respondent on the suit property. In view of the order dated 16.03.2022 passed by this Court in the appeal, the status of the property shall be read along with the Commission Report. The initial *status quo* order passed in the suit on 25.09.2021, in fact, had merged with the order dated 16.03.2022, passed in the appeal by this Court. And, accordingly if the *status quo* order is read, the respondent was in possession of the property.

13. The *status quo* order dated 25.09.2021, passed in the suit had, in fact, merged in order dated 16.03.2022 passed by this Court in the appeal. The *status quo* is subject to the Commission report. The Commission Report reveals that the respondent was in possession, therefore, there was no question of entertaining any application under Order 29 Rule 2A of the Code on the ground that possession was taken by the respondent post *status quo* order dated 25.09.2021. In view of it, the Court has rightly dealt with the application 36C of the respondent, and allowed it holding that there are no proper grounds to continue with the application under Order 39 Rule 2A of the Code.

14. Having considered, this Court does not see any error in the impugned order. Accordingly, the appeal deserves to be dismissed at the stage of admission itself.

15. The appeal is dismissed *in limine*.

(Ravindra Maithani, J)
23.04.2026

Ravi Bisht